

15.11.2022
Item No.04
BR

CRR 2591 of 2010
with
CRAN 1 of 2010 (Old No. 3572 of 2010)
Mohit Kumar Sharma
Vs.
M/s Neha Confectionary Pvt. Ltd.

Mr. Debashish Roy,
Mr. K. Gupta,
Mr. Suryaksh Manot
... for the Petitioner

Mr. Somopriyo Chowdhury,
Mr. S.Sarangi,
Mr. Dipayan Das for the added respondent

This application under Section 482 stems out of proceeding initiated at the instance of Neha Confectionary Pvt. Ltd. who filed a petition of complaint against Maks Biscuit Pvt. Ltd. and five other persons who are Directors of the said company. An agreement was entered into by and between the complainant and the accused nos. 1 to 5 whereby the complainant agreed to entrust the accused persons with the job/conversion work and made an advance of Rs. 12,47,000/- through cash and cheque on the understanding that the same will be adjusted against conversion charges, for the conversion work to be done by the accused persons on behalf of the company. Initially, the accused persons gain confidence of the complainant by dispatching some materials in terms of contract but subsequently they refused to honour the contract and sold the factory of accused no. 1 to the accused no. 6. After running from pillar to post for a considerable period of time the complainant could make the accused persons settled the accounts of the company. Cheques were issued by the accused persons in favour of the complainant . Unfortunately the banker of the accused persons

refused to honour the cheque for insufficient fund. According to the complainant the accused persons made wrongful gain causing wrongful loss to the complainant .

Learned Metropolitan Magistrate, 9th Court , Calcutta after examining of the complainant under Section 200 of Cr P C was pleased to issue process under Section 420/120B of IPC.

In a case of breach of contract, in absence of any evidence that since inception of the contract the accused persons had the intention to dupe the complainant by inducing him in any manner whatsoever, ingredients of offence within the meaning of Section 415 of the Indian Penal Code cannot be traced out. However, as parties have settled their disputes , as submitted by learned counsels for the parties I do not find anything left to decide in this petition for revision .

The petition is , thus, disposed of , without any order as to costs.

Criminal proceeding pending before the learned 9th Court of Metropolitan Magistrate, Calcutta stands quashed.

Let a copy of the judgment be sent down to the learned Court below for information and necessary action.

Urgent certified copy be made available , if applied, therefor, upon compliance of requisite formalities.

All parties are to act on the server copy of this order duly downloaded.

(Siddhartha Roy Chowdhury, J.)